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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,511	10/17/2001	Drew Sarkisian	BRDC:035	7215

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EXAMINER

BOUTAH, ALINA A

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/982,511

Applicant(s)

SARKISIAN, DREW

Examiner

Alina N. Boutah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 6-16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1 and 6-16 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 25 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This action is in response to Applicant's amendment filed August 25, 2006. Claims 1, 6-16 are pending in the present application.

Drawings

Applicant has resubmitted formal drawings. The objection is now withdrawn.

Claim Rejections - 35 USC § 112

Due to Applicant's amendment, the rejection of claim 7 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement is withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 6-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gelman (USPN 6,415,329).

Regarding claim 1, a communication network, comprising:

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a server computer, capable of communicating over a first communications link in accordance with a standard internet protocol (IP) and also capable of communicating over a second wireless communication link in accordance with a specialized internet protocol (IP) (figure 7: 134);

a client device, capable of communicating with the server computer over the second wireless communication link in accordance with the specialized internet protocol (IP) (figure 7: 132);

a program of the client device, operable with a standard form data for the program (figure 12: 260);

wherein the specialized internet protocol (IP) is capable of delivering a non-standard form data and the standard form data for receipt by the client device in communicating with the server computer over the second wireless communication link (figure 1);

a hooking layer, comprising:

a standard socket for receiving and delivering standard form data for use by the program (figure 1) ;

a specialized socket for receiving non-standard form data for use by the program, translating the non-standard form data to the standard form data, and delivering standard form data for use by the program (col. 7, lines 11-29); and

a switch for selecting either standard socket or the specialized socket, in communicating with the server computer by the client device, for receiving, respectively, the standard form data and the non-standard form data (col. 7, lines 11-29).

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However, Gelman does not explicitly teach the hooking layer performing the mention steps at the client device. Instead, he discloses that the translation is being done at source and destination gateways (figures 1 and 7; col. 1, lines 12-47). At the time the invention was made, one of ordinary skill in the art would have been motivated to modify the teaching of Gelman by employing a hooking layer at the client device in order to minimize extra computer system, thus allowing direct connection between the client and the server, making the system run faster.

Regarding claim 6, Gelman teaches the wireless communications network of claim 1, wherein the wireless communications link carries a cellular packetized data for communications between the client device and the server (col.20, lines 44-59).

Regarding claim 7, Gelman teaches the wireless communications network of claim 1, wherein the wireless communication is a CDPD system (col.20, lines 44-59).

Regarding claim 8, Gelman teaches a method of wireless communications, wherein a client device communicates wirelessly with a server computer, and wherein the client device runs a standard program using a standard format data, comprising the step of:

serving a first information by the server computer to the client device according to a specialized protocol, the first information comprising a non-standard format data because of the specialized protocol (figure 7);

receiving the first information by the client device (figures 1 and 7);

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determining that the first information comprises the non-standard format data (figures 1 and 7; col. 1, lines 12-47);

translating at the client device the non-standard format data to the standard data useable by the standard program (figures 1 and 7; col. 1, lines 12-47).

However, Gelman does not explicitly teach the translation being done at the client device. Instead, he discloses that the translation is being done at source and destination gateways (figures 1 and 7; col. 1, lines 12-47). At the time the invention was made, one of ordinary skill in the art would have been motivated to modify the teaching of Gelman by employing a translation step at the client device in order to minimize extra computer system, thus allowing direct connection between the client and the server, making the system run faster.

Regarding claim 9, Gelman discloses the method of claim 8, wherein the step of translating includes the step of invoking non-standard dynamic link libraries (col. 4, lines 32-58; col. 7, lines 63-67 to col. 8, lines 1-10).

Regarding claim 10, the method of claim 9, wherein the step of creating a non-standard socket is included in the step selected from the group consisting of : receiving, determining, translating, and combinations thereof (col. 4, lines 32-58; col. 7, lines 63-67 to col. 8, lines 1-10).

Claims 11-12 are similar to claims 8-10, therefore are rejected under the same rationale.

Claims 13-16 are similar to claims 1 and 6. Therefore they are also rejected under the same rationale.

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion for motivation with the satellite communications of Gelman, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Gelman suggests motivation to obtain applicant's claimed invention. Figure 7, element 136 of Gelman illustrates client/local gateway that translates non-standard to standard protocols. That fact that element 136 is labeled as

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“client/local gateway” implies that the gateway can be a client and therefore can perform the same function as claimed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alina N. Boutah whose telephone number is 571-272-3908. The examiner can normally be reached on Monday-Friday (9:00 am - 5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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